r/MtF • 10mo ago
JessicaPink703 Legal Researcher

Legal Theory: The New Covert Institutional Coup for Destroying Trans Rights

Politics

Now that Trump's initial Flood The Zone strategy has failed to yield full control, with him backtracking on defying some high profile court orders (and therefore policy), I believe I have discovered his next play to undermine our institutional safeguards and therefore our rights. The parallel between now and Nazi Germany I believe he is trying to re-create: A brand new two tiered justice system, a weakened judiciary and an emboldened administrative state.

By beginning to play nice with his Justices, he wants to get courts to uphold administrative deference under broad interpretations of executive authority (an expanded deference version of the unitary executive theory), particularly in areas like immigration, healthcare, the military, and national security. From there, de facto bans through unreasonable bureaucratic barriers on things Trump doesn't like can be implemented for vague and arbitrary reasons. Let me give an example:

Maybe after the Passport gender change lawsuit has been won, he still on paper lets people change their gender markers, but you have to go to the one remote office in the whole country somewhere in Alaska and make an appointment years out, with only one official in the country allowed to do it. And because it's technically possible in theory, and they tell the courts it is for national security reasons to verify authenticity of identities, friendly judges Trump just appointed let it stand after the Supreme Court expands his national security powers. Replace Passport changes with getting government-funded HRT, requesting asylum, getting federal grants, a trans person joining the military, hiring a new federal employee of an agency he doesn't like, or through wartime powers getting your TV network license renewed (as an alternative to Trump just approving it) after doing 'illegal' coverage, you get my point.

Once something's de facto banned through the administrative state and the judiciary no longer has sufficient checks (through new judicial appointments/legal think tanks/currently biased judges/favorable rulings), it's that much easier to say 'no one is using it, let's close it down anyway!' without justification. This move is him, after flooding the zone, beginning to play the long game. The agenda he has laid bare remains the same, but the implementation changes.

Do I have a solution in mind to respond to this? No. The best I can do now is open it up to you all, and tell you to use this time wisely to prepare to protect yourselves (whether that be updating documents, saving money, preparing an evacuation plan, building a support network, etc.) <3

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Another thing is Trump is planning on running for a 3rd term. Seems like a tyrant to me. He’s not going to stop at 3 either (if he gets 3 terms, it’s all over).

Kenosis94 • 10mo ago • Edited 10mo ago

Honestly, if he keeps going at this pace, I don't think he will live to see the end of the current term. Either he is wildly out of his depth with how confidently he can safely do these things or he is being "encouraged" to do them and maybe hasn't fully realized he is also the meat shield for the puppet masters. He's already fucking with defense industry money and people are lighting shit on fire across the country. How long before the right rich business person who's government contracts musk stole gets ahold of a secret service agent who's loved one offed themselves after Trump/musk torched

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their career? I just don't see a way he keeps up at this pace and scale without crossing too many of the wrong people in some way.

JessicaPink703 OP • 10mo ago
Legal Researcher

We’re beginning to see this forming in a way, with MAGAs showing up at town halls and screaming at their Representatives. Hell, his open defiance of court orders got so bad that Fox News even grilled him on air. The question will be the ability for sustained resistance, and it doesn’t appear this national backlash will last as of now. Barring a wild card.

evangelineEEK • 10mo ago

Running? Where he wants to go, we don’t need elections.

JessicaPink703 OP • 10mo ago
Legal Researcher

That’s what happens when fascists get unchecked power, even though they enjoy power while they have it, they historically never like the ending...

Fatkuh • 10mo ago

I hate that this is simultaneuously a horryfining fact and a nod to a famous Event Horizon Quote

MaybeMelanieTransAlt • 10mo ago

I've consumed waaaay too much political content lately, and right now I firmly believe that there will still be "elections." It'll be Russian style, either old or new. New would be its rigged and Trump and his successors keep winning by bigger and bigger margins even as unrest grows. Old would be it isn't rigged because there's no appreciable difference in the options; look for this style more post Trump, when choosing his successor, and then his successor when the first one decides they're tired of it, and so on and so forth.

And I mean properly no difference between the candidates, not like that "ITS TWO WINGS ON THE SAME BIRD" crowd that keeps shouting that there's no difference between Dems and Repubs. In the interest of complete fairness, there is way less difference between them than there should be, but it's going to get WAY worse if we can't find a way to remove MAGA from power. This goes deeper than Trump now; Vance will do whatever he's told if he sneaks into office (likely due to a Big Mac induced heart attack), and Third in Line Mike Johnson is honestly MORE terrifying than Trump.

JessicaPink703 OP • 10mo ago
Legal Researcher

I pay attention when he talks about blue states “disappearing” from the map, I think he means that literally.

-Random_Lurker- • 10mo ago
"My Boobs" = The best 2 words I have ever said

That's not a fallback plan, it's their entire plan. It was in Project 2025 long before the election.

The best thing any of us can do is get to a blue state with explicit discrimination protections ASAP. Those who can't afford it, find a way to. Soon.

JessicaPink703 OP • 10mo ago
Legal Researcher

I believe the question will be whether blue states are willing to fight back, with force if needed, to protect the military from dictating civilian government. Otherwise, a slow and gradual introduction of Martial Law could render them useless.

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[deleted] • 10mo ago

RocketGirlErin • 10mo ago

If it was hopeless, then project 2025 wouldn't have been written banking on only 2 years before being rebuked in the elections I to their plan.

JessicaPink703 OP • 10mo ago
Legal Researcher

Things like using States Rights to go after Biden policies sure is having a double edge sword effect right now ⚔️

n0b0D_U_no • 10mo ago
Bisexual

One thing to note: the whole "one office in the middle of nowhere etc." thing has already been tried before, but for firearm licensing, and the SC declared it unconstitutional. This was a good while ago, and we have different justices now, but at least there's some precedent for that particular strategy to fail

Nixphoe701 • 10mo ago
Transgender

The difference is that 2nd amendment rights were the argument against the sole licensing office. A passport has no such protections under the US constitution.

JessicaPink703 OP • 10mo ago
Legal Researcher

Unrelated but important point: The 2nd Amendment was actually designed for states to have their own militias (state militaries) to fight back against a tyrannical federal government, not for an individual to have the right to a gun.

2 Reply Award Share ···

n0b0D_U_no • 10mo ago
Bisexual

Fair nuff

1 Reply Award Share ···

JessicaPink703 OP • 10mo ago
Legal Researcher

Combine hypothetically two legal theories succeeded with this one:

1. The federal government can't be forced to hire enough employees for this new 'screening department'.
2. They need to 'specially vet' who approves these because of 'national security' with wartime powers and therefore it is not subject to judicial review.

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irulan-calico • 10mo ago

On the bright side the Supreme Court is by no means on his side right now. They gave him that immunity

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JessicaPink703 OP • 10mo ago
Legal Researcher

We can hope and pray, but I find it more likely they go with centuries of precedent regarding almost always yielding to the executive branch regarding when, if, and how to use wartime powers. Basically, all the precedent indicates that except for addressing a single violation (usually limited to habeas corpus), the judiciary will not interfere for fear of violating Separation of Powers. If they stick with

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corpus), the judiciary will not interfere for fear of violating Separation of Powers. If they stick with that, the most they can really do is closely scrutinize what really is a wartime power and where is not.

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keytiri • 10mo ago

I'm not expecting too much "administrative deference" unless SCOTUS is willing to reverse itself, yet again, on Chevron; I wouldn't be surprised if there's some "activist" judges salivating at the thought of overruling agencies.

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JessicaPink703 OP • 10mo ago
Legal Researcher

I don't think it's going to be a formal administrative deference, but more an expansion of the Political Questions Doctrine to insulate them every time they say the words 'national security' or 'terrorist'. You'd be surprised how much they can get away with historically with wartime and national security powers.

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[deleted] • 10mo ago

Reminds me of those impossible to pass voting tests during the Jim Crow era that were technically legal

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JessicaPink703 OP • 10mo ago
Legal Researcher

Yeah, that's the idea. De facto bans rely on that base concept to survive uninterrupted.

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